

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: CERTAINTEED FIBER CEMENT SIDING LITIGATION :
_____ : MDL DOCKET NO. 2270
: :
THIS DOCUMENT RELATES TO: :
ALL CASES :
:

ORDER

I have before me the motion of the Jabrani objectors for an award of attorney's fees and costs and an incentive payment and the response thereto of plaintiffs and Certainteed Corporation. The objectors seek an award of \$140,000.00 in attorney's fees and costs and incentive payments of \$2,000.00 each.

The objectors' motion is based upon the proposition that "the Jabranis' objection created a benefit of tens of millions of dollars to the class by eliminating a reversion to Certainteed." In my view this assertion is entirely devoid of merit.

The settlement agreement provided that Certainteed would pay the sum of \$103.9 million dollars for the benefit of the settlement class over a period of time. There was no provision whatever in the Agreement for reversion of any part of the settlement fund to Certainteed in the event the settlement fund was not exhausted by the settlement class. Consequently, if there were any money not claimed by the settlement class any attempt by Certainteed to recover that money under the terms of the contract would have been fruitless. Further, on September 30, 2013 plaintiff filed a motion for preliminary approval of the class action settlement. In that filing plaintiffs represented that the parties had reached a settlement which included "a gross, non-reversionary settlement fund of \$103.9 million for the benefit of the Settlement Class." I granted

preliminary approval of the settlement on October 3, 2013, based in part on plaintiffs' representation. The Jabrani objections were filed thereafter on December 31, 2013.

Plaintiffs' motion for preliminary approval and the supporting memorandum of law were available to all class members including the Jabrani objectors. The Jabrani objectors testified at their depositions that they never reviewed the settlement website or the documents posted on the website. If they had, they would have learned that there was no reversion to Certainteed provided in the agreement and that counsel for plaintiffs had made the representation to me when I gave preliminary approval to the settlement that it was a non-reversionary settlement fund.

AND NOW, this 30th day of April, 2014, the Jabrani objectors' motion is DENIED.

s/ Thomas N. O'Neill, Jr.
THOMAS N. O'NEILL, JR. J.